

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1087 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE D.G.KARIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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AGRAWAL SURESHKUMAR RAMAAVTAR

Versus

R.S.JOSHI,MAMLATDAR

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Appearance:

MS KUSUM M SHAH for Petitioner  
SERVED for Respondent No. 1  
PUBLIC PROSECUTOR for Respondent No. 3

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CORAM : MR.JUSTICE D.G.KARIA

Date of decision: 18/01/97

ORAL JUDGEMENT

1. The petitioner who was managing the Mid-day Meal Scheme No.170 at 'Aval Ghumti' of Primary School in Palanpur taluka, at the relevant time, has challenged the issuance of warrant against him by this petition under Article 226 of the Constitution of India.
2. The Mamlatdar, Palanpur- respondent no.1 herein,

issued notice on 19th June, 1990, directing the petitioner to restore the stock of 2817 kg. wheat, 1800 kg.rice, 1192 kg. kathor and 244.500 kg. edible oil to the govt. which was said to be taken by the petitioner from various Fair price shops during the period of 1988-89. It appears that prior to the aforesaid notice dated 19.6.1990, the petitioner was directed by notice dated 22nd August, 1989 to restore the said stock. It appears that the petitioner did not reply to any of the said notices nor he complied with it. The warrant of arrest of the petitioner was ordered to be issued on or about 26th June, 1990. The petitioner has challenged the said warrant in this petition.

3. It is not in dispute that the petitioner conducted the centre of Mid-day Meal Scheme. He did not send any reply to the notices of the respondent no.1 with regard to recovery of quantity of civil supplies to which he has not given any account.

4. Miss.Kusum Shah appears for the petitioner. The petitioner has also not enclosed the impugned warrant which is alleged to have been issued by the respondent no.1. It appears that the petitioner recovered huge stock of civil supplies as mentioned in the notice at Annexure-A. There is no mention in the petition that under what circumstances, the petitioner could not restore or deposit the stock of such substantial quantity of civil supplies, despite several notices. There does not appear to be any reply to several notices issued by first respondent to the petitioner in this behalf.

5. The warrant appears to have been issued under section 25 of the Bombay Land Revenue Code, 1879. Section 25 provides interalia that;

"The Collector or the Superintendent of Survey or any other officer, deputed by the Collector or Superintendent of Survey for this purpose shall in all case in which he may have a claim on any revenue officer or on any person formerly employed as such in his department or district for public money or papers or other property of the Government, by writing under his official seal, if he use one, and signature, require the money, or the particular papers of property detained to be delivered either immediately to the person bearing the said writing, or to such person on such date and at such place as the writing may specify."

It is further provided that;

"if the officer or other person aforesaid shall not discharge the money, or deliver up the papers or property as directed, he may cause him to be, apprehended, and may send him with a warrant, in the form of Schedule C to be confined in the civil jail till he discharges the sums or delivers up the papers or property demanded from him."

Section 25 further provides that;

"Provided that no person shall be detained in confinement by virtue of any such warrant for a longer period than one calendar month."

In absence of the copy of warrant on record, it is not known as to what is the period of detention as ordered under the warrant.

6. On plain reading of section 25 of the Code, the 1st respondent is competent and authorized to issue warrant in case any revenue officer or any person commits default in delivery of the property of the govt. as directed under section 25 of the Code. There is therefore, no merits in the present petition.

7. In the result, the petition fails and is dismissed. Rule discharged. Interim relief stands vacated.

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Amp/-

